

EXHIBIT 10

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 E. JEAN CARROLL,

6 Plaintiff,

7 -vs-

20 CIV. 7311

8 DONALD J. TRUMP,

(LAK) (JLC)

9 in his personal capacity,

10 Defendant.
11 -----X

12
13 DEPOSITION OF ROBERT FISHER

14 December 14, 2022
15
16
17
18

19 Reported by:

20 MARY F. BOWMAN, RPR, CRR

21 JOB NO. 220615
22
23
24
25

1 R. Fisher

2 Q. You were there from 1968 to 1969?

3 A. Yeah. Yeah. I started in mid --
4 probably mid '68, went into '69.

5 Q. Did you reach a full year at The
6 Times?

7 A. No, I wasn't there a full year.

8 Q. What was your position?

9 A. I was a reporter. What they
10 call -- I worked in the Los Angeles bureau,
11 not in New York, and there are like ten
12 people there.

13 And when you're in a bureau, if
14 you're in New York, usually you have a
15 specialty type of thing. But out there, we
16 were all generalists. So I would do
17 various type assignments. I could cover a
18 Litton stockholder meeting. The next day I
19 could cover a press conference for the Los
20 Angeles Rams. I just did all sorts of
21 articles.

22 Q. Roughly how many articles did you
23 write while you worked there?

24 A. Oh, I could not give you a guess.
25 I could not give you an estimate. I did a

1 R. Fisher

2 lot of what you call -- I did multiple
3 articles a day. I was -- I covered the
4 international beat for a while. I could
5 explain that to you.

6 But I might write or three or
7 four international stories a day and it was
8 based on -- well, if you want me to get
9 into it, it was based on pirating something
10 from the LA Times. If you want me to get
11 into it, I will. If not -- let's vague and
12 ambiguous just say I wrote a lot of
13 articles.

14 Q. Did you name appear on the byline
15 for those articles?

16 A. No, I can't remember -- no, they
17 couldn't. Those kind of articles, you
18 couldn't put the byline because they were
19 basically plagiarism. I mean -- not
20 plagiarism, but I mean taking information
21 from other sources.

22 So you couldn't put your name on
23 it because if you put your name -- if
24 anybody put their name on it, it would be
25 more -- it was more -- it looked like a

1 R. Fisher

2 there is anything else out there, that kind
3 of thing, and that's pretty much the
4 only -- oh, if the case has media exposure.
5 You know, 90 percent of the cases I have,
6 no one knows who the plaintiff and
7 defendants are. And you know, there is --
8 the media doesn't cover it.

9 But if there are, I like to get a
10 sense of what, you know, what the -- I have
11 a case in New York, the Central Park Five
12 case where there is literally 5, 600
13 articles on the internet about it, you
14 know, that kind of thing. But most cases
15 have none.

16 So I looked and I saw a few
17 articles. You know, I don't read them all
18 because they all basically say the same
19 thing. I just try to get a sense of what's
20 being said out there.

21 Q. And can you approximate how many
22 articles you read about the case or the
23 parties involved in the case?

24 A. This was about a month ago when I
25 got the assignment and -- probably about

1 R. Fisher

2 four or five, I'd say. There were a lot
3 of -- but you know, I mean, most of them
4 are covering pretty much the same thing and
5 so -- I just try to get a flavor of what's
6 being said out there.

7 Q. And in addition to those four or
8 five articles that you read, do you recall
9 reviewing anything else as part of this
10 internet research?

11 A. No. No. That's -- there
12 wasn't -- I didn't have a lot of time. I
13 had a deadline of five days from the day
14 they -- Mr. Swift called me, to the day
15 that the report was due, it was like five
16 days. I didn't have time to do too much
17 researching.

18 And frankly I didn't need to.
19 Because the scope of my -- I think -- in
20 the 60 -- 80 cases is I've had, this was
21 the first time I was ever hired as a
22 rebuttal. You know, normally, I'm hired by
23 the plaintiff or defendant, you know,
24 handle the whole case. This was the first
25 time I was ever hired exclusively to do a

1 R. Fisher

2 and I'm trying to remember whether there
3 was exhibits or not.

4 I don't believe I read the
5 exhibits. I just looked at the report.
6 Like I said, time was very short. I
7 concentrated on the report.

8 Q. If we can turn to what is the
9 table of contents, it's I guess -- the
10 (iii) just a couple of pages in, still in
11 the table of contents, you see there is
12 various appendices listed? Sort of
13 following the conclusion on that page?

14 A. Oh, yeah, appendix, you mean.

15 Q. Yeah, by -- when you testified
16 previously that you didn't review the
17 exhibits, were you referring to the
18 appendices?

19 A. Yeah.

20 Q. So you had not reviewed any of
21 the appendices that are listed out in the
22 table of contents?

23 A. I might have skimmed through just
24 to see what they look like, but I don't
25 remember -- I more or less stopped with the

1 R. Fisher

2 signature page on the thing. I might have
3 skimmed through some of them.

4 Q. Okay, let's turn to first turn to
5 page 74 of this, of Exhibit 4.

6 A. Yes.

7 Q. You will see at the top, it says,
8 "Appendix A, Professor Humphreys' CV and
9 prior testimony," and underneath that in
10 brackets, it says "Produced in native
11 form"?

12 A. Yeah, that bothered me a great
13 deal because I was not able to see her CV.

14 Q. So you didn't receive or review
15 Professor Humphreys CV?

16 A. No, and that bothered me. That
17 bothered me. I would have liked to have
18 seen her CV, but since they listed her
19 background within her report, you know, she
20 summarized her background in her report.

21 But it would have been nice to
22 see her -- the thing. But I didn't feel it
23 was that germane. I didn't really -- more
24 or less, you know, retained to look at her
25 opinions, not her background.

1 R. Fisher

2 Q. If we turn to page 116 in this
3 same exhibit. You will see it says at the
4 top, "Appendix A, Examples of negative
5 comments and posts about Ms. Carroll," and
6 then we see in brackets "Produced in native
7 form"? Do you see that?

8 A. Yeah, what does that mean,
9 produced in native format?

10 Q. We don't have to sort through
11 that now, but sort of my previous question,
12 did you review this appendix A that was
13 produced in native form?

14 A. No, I never saw it.

15 Q. And if you turn just one more
16 page, to page 117 of Professor Humphreys'
17 report, and you see another appendix
18 listed, it's appendix I, "Examples of
19 direct messages and emails to Ms. Carroll,"
20 and under that it says, "Produced in native
21 form," is it fair to say that you didn't
22 review appendix I either?

23 A. No.

24 Q. Let's turn back to page 75.

25 A. Yes.

1 R. Fisher

2 Q. At the top, do you see where it
3 says "Appendix B, materials considered"?

4 A. Yes.

5 Q. And then the first section says
6 "Bates stamped documents."

7 Did you review any of the
8 documents listed in this section?

9 A. No.

10 Q. And then under that on the same
11 page, we see a section entitled, "Legal
12 filings and depositions."

13 You testified previously that you
14 did review the complaint, is that correct?

15 A. Yes.

16 Q. Did you review the deposition of
17 Robbie Myers?

18 A. No.

19 Q. Turn to the next page, page 76,
20 header "Academic articles" and then there
21 is a list of academic articles that
22 continues on to page through page 78.

23 Do you see that?

24 A. Yes.

25 Q. And did you review any of the

1 R. Fisher

2 academic articles listed here?

3 A. No, I wasn't provided.

4 Q. By -- I believe you said no, you
5 weren't provided. Are you aware that these
6 academic articles were made available to
7 the defendant's counsel in conjunction with
8 Professor Humphreys' expert report?

9 A. I don't know what the relevance
10 of these academic -- I don't know what
11 these academic articles are or what they're
12 about or whether they are -- I mean, you're
13 asking me about the things I'm not even
14 aware of and whether they are germane to
15 anything.

16 Q. Okay, if we turn to page 79,
17 there is a section titled "Books." Did you
18 review any of the books listed in this
19 section?

20 A. No.

21 Q. And then lower on that same page,
22 there is a section titled "Websites" and
23 then there is a list of URLs that continues
24 on to page 83.

25 Did you review any of the

1 R. Fisher

2 websites at those URLs?

3 A. No.

4 Q. Then if we turn to page 83, there
5 is a section entitled "Social media posts"
6 that continues on to page 84.

7 Did you review any of those
8 social media posts listed there?

9 A. No.

10 Q. And then on page 84, there is a
11 section called, "TV rating references,"
12 that continues on to page 85.

13 Did you review any of those TV
14 rating references that Professor Humphreys
15 lists?

16 A. No.

17 Q. And then on page 85, we have a
18 section entitled, "Damages model
19 references," that lists as 5 bullets under
20 there.

21 Did you review any of those
22 damages model references that Professor
23 Humphreys lists?

24 A. No.

25 Q. And also on page 85, we have a

1 R. Fisher

2 section entitled, "Print publication data
3 references."

4 Did you review any of those print
5 publication data references?

6 A. No.

7 Q. And at the end of 85, we have a
8 section entitled, "ProQuest articles," and
9 that continues on to page 86.

10 Did you review any of those
11 ProQuest articles?

12 A. No.

13 Q. And then finally, on page 86, we
14 have a section entitled "Databases."

15 Did you review or consult any of
16 those databases?

17 A. No.

18 Q. So if we look -- just I apologize
19 for maybe doing some flipping back and
20 forth between your rebuttal report and
21 Professor Humphreys' report. If we open to
22 page 9 of your rebuttal report in the
23 paragraph with the header "preface."

24 Do you see that?

25 A. Yes.

1 R. Fisher

2 A. No.

3 Q. And you haven't read any of the
4 other articles listed on pages 76 through
5 78 of appendix B, is that correct?

6 A. The ones we went through
7 meticulously, no.

8 Q. So what was the basis for your
9 claim that her expertise is not
10 "primarily" -- or is "primarily geared to
11 promotion and advancing positive content"?

12 A. I was taking her own words for
13 it. She entered a description at the
14 beginning of her report which is what --
15 where people outline basically their
16 expertise.

17 She talked about -- she gave her
18 academic background which she is doing now
19 and she said she previously worked as a --
20 well, this was in her deposition, prior to
21 working at Northwestern, she worked in
22 events and promotion, promotions and --
23 events and promotions.

24 She said that her background was
25 very heavy in marketing and advertising and

1 R. Fisher

2 that she had experience in social media,
3 digital communications. That sort of
4 thing. That's -- I mean, that was her
5 background.

6 And given that this is a
7 defamation case and given that defamation
8 relates to reputation harm, when she was
9 representing what her expertise is and
10 doesn't mention any background whatsoever
11 in reputation harm or reputation management
12 or damage, she is basically somewhat of a
13 fish out of water.

14 For the most part, it would be
15 the equivalent to an attorney being a
16 family law attorney and then getting
17 involved in something in intellectual
18 property.

19 It's both areas of law just like
20 advertising and marketing is areas of
21 communications but they're not the specific
22 specialization area that is required for
23 the task at hand.

24 Q. And you made reference in your
25 answer to Professor Humphreys' depositions,

1 R. Fisher

2 promotions disqualify you as an expert in
3 this case?

4 A. No. Because I -- that's not the
5 sole base of my expertise.

6 Q. And are you aware that academic
7 who study marketing regularly research and
8 study reputation and brand crises?

9 A. Not that I was aware of.

10 Q. Have you spent any time reviewing
11 the academic literature on reputation
12 repair?

13 A. No, not specifically.

14 Q. And would your opinions regarding
15 Professor Humphreys' report change if you
16 became aware that her primary area of study
17 is not related to the promotion and
18 advancing of positive content?

19 A. I'm sorry, would you repeat that
20 question.

21 Q. I said would your opinions
22 regarding Professor Humphreys' report
23 change if you became aware her primary area
24 of study is not primarily focused on the
25 promotion and advancing of positive

1 R. Fisher

2 content?

3 A. I would have to know what her
4 primary focus was on.

5 Q. And --

6 A. I mean, it doesn't do any good to
7 say that isn't her primary area. That
8 tells me nothing. What is her -- you would
9 have to tell me what her primary focus
10 seems to be on and I could make a better
11 judgment.

12 Q. What sort of information would
13 you need to assess her primary focus?

14 A. I need to know what her
15 background -- what her background and
16 experience and expertise are in the area of
17 reputation -- reputation in -- anything to
18 do with reputation. Creating reputations,
19 building them, nurturing them, protecting
20 them and overcoming negative -- negative
21 content that harms reputations.

22 Nothing she said in her report
23 gave any indication she has any background
24 whatsoever in reputations. And frankly,
25 her report reflected that. But go ahead.

1 R. Fisher

2 It's not a reputation damage or anything to
3 do with reputation per se.

4 And I wouldn't be emphasizing
5 that. I would be saying, look, this is my
6 background and expertise as it relates
7 directly to reputations and either building
8 them or protecting them or overcoming
9 damage of them.

10 She has not one word in her
11 report -- and I didn't see her CV, so if
12 there is something in there, I apologize
13 for not seeing it. But she didn't say one
14 word in her report in her describing her
15 background, experience and expertise that
16 related whatsoever to reputation or
17 reputation damage.

18 Q. In your report, you make
19 reference to your work as a reporter at the
20 New York Times, correct?

21 A. I was a reporter for the New York
22 Times, yes.

23 Q. And you found that relevant to
24 mention in your report?

25 A. Well, it was relevant in the

1 R. Fisher

2 that that was for roughly a year in 19 --

3 A. Not quite, it was under a year.

4 Q. Are you aware that one of
5 Professor Humphreys' professorships is at
6 Northwestern School of Journalism?

7 A. That's an excellent school of
8 journalism. It's one of the best around.

9 Q. Were you aware that Professor
10 Humphreys was a professor at that school of
11 journalism?

12 A. No. No.

13 Q. Can you turn to page 1 of
14 Professor Humphreys' report. If you read
15 the very first sentence of her report, it
16 says, "I am a professor of integrated
17 marketing communications at the Medill
18 School of Journalism."

19 Do you see that?

20 A. Yes. But again, as I said,
21 journalism -- there is a difference between
22 teaching journalism and being in the field
23 covering events. You're comparing apples
24 to oranges there.

25 I mean, it's one thing to get up

1 R. Fisher

2 in, you know, of how to be a journalist,
3 what to write, how to write, how to conduct
4 an interview right. They don't go out and
5 write articles themselves and they don't --
6 journalist professors -- I have two years
7 of journalism. I know what they teach.
8 It's not the same thing. You're comparing
9 apples to oranges.

10 Q. Do you know what sort of classes
11 Professor Humphreys teaches?

12 A. No, but I've about been -- I
13 don't know that journalism -- there is
14 different forms of communications back and
15 when I was going to journalism school, the
16 internet didn't exist.

17 So there is different
18 communications outlet that journalism
19 people, you know -- a lot of journalists
20 are contacted by Twitter now or this or
21 that. There is the things -- but the
22 basics of journalism hasn't changed. Maybe
23 the outlets of how you communicate change
24 but the basics of journalism hasn't
25 changed.

1 R. Fisher

2 shocked how different it is when you're out
3 there as to how they're applied, which are
4 used, how they're applied, that kind of
5 thing.

6 So I'm a little skeptical
7 about -- you know, academia people and
8 their theories on how you should do things
9 as opposed to how they're done in the real
10 world.

11 Q. And so I guess you understand
12 that lawyers cannot serve as experts in --

13 A. Of course.

14 Q. -- a lawsuit?

15 So besides, to use your term sort
16 of, real world PR professionals, are there
17 any other qualified experts in a defamation
18 case?

19 A. I don't really think so. I mean,
20 the bottom line is that to take somebody --
21 and I'm not talking specific about
22 Professor Humphreys, but I've been in other
23 cases, many other cases where the opposing
24 experts had -- especially in the internet,
25 they seem to hire, these law firms seem to

1 R. Fisher

2 I don't know. I wasn't in the dressing
3 room at the time. Very well could have
4 happened.

5 But the point is you have to look
6 at -- nothing I saw in any of the
7 documentation I read or any of the evidence
8 or anything that I saw validated that a
9 rape occurred. And you know, I mean, he
10 says -- she said it did. He said it
11 didn't. I mean, I don't think anybody
12 could make a judgment. It's -- you know,
13 you have two conflicting views and there is
14 no independent evidence one way or the
15 other.

16 Q. And what do you mean when you
17 write, "It cannot be a false statement to
18 deny some action that hasn't been proven to
19 have taken place"?

20 A. That's true. A false
21 statement -- a statement as opposed to an
22 opinion, as you know, but I'll just put it
23 for the record, a statement is something
24 that could be proven or not proven, whereas
25 a -- whereas an opinion is something that

1 R. Fisher

2 obviously can't be proven. And no one has
3 proved one way or the other -- so by the
4 classic definition of a false statement, it
5 can't be a false statement if it's not
6 proved to be untrue.

7 Q. So is it your testimony that
8 whether or not Mr. Trump raped Ms. Carroll
9 is a question of opinion?

10 A. No, I'm not saying it's a
11 question of opinion. I'm saying it's --
12 there is no documented evidence that I'm
13 aware of -- now, there may be something.

14 Maybe she, like Monica Lewinsky,
15 maybe she kept her dress and has taken it
16 in for a sampling and they found his semen
17 on it. I don't know. I'm saying -- I can
18 only give my conclusions and opinions based
19 on knowledge that I have and I have no
20 knowledge whatsoever that that rape
21 occurred.

22 Now, if there is some, I don't
23 have it. And if it didn't occur, it can't
24 be -- it can't -- when he denied it, it
25 can't be a false statement because it's an

1 R. Fisher

2 act that has never been proven to be.

3 Q. But if Trump committed the rape
4 and therefore, knew he committed the rape,
5 would it have been a false statement when
6 he denied it?

7 A. Well, of course it would have
8 been. Of course it would have been. There
9 is no question about it.

10 But the point is we don't know it
11 was a false statement. There is no
12 documented evidence that it was a false
13 statement.

14 The only way it would have been a
15 false statement -- I mean, he knows in his
16 own heart whether he did it or not. But
17 the only way it would have been a false
18 statement is if somebody could prove it
19 really didn't happen and he lied about it.

20 Q. Is it your opinion the only way
21 to prove defamation in this context is to
22 have documentary evidence proving that a
23 rape occurred?

24 A. Well, it's common sense I think.
25 I don't know if it's my opinion, but I

1 R. Fisher

2 mean -- my -- am I supposed to say -- is
3 anyone supposed to say that Trump lied when
4 there is no evidence that he did lie?

5 I mean -- maybe you are seeing
6 something I'm not. I mean, I know -- it
7 doesn't matter whether we think he did it
8 or not or didn't do it, something like
9 that.

10 The point is all you can -- you
11 don't try cases -- you don't decide cases
12 on supposition. Well, you know, he must
13 have done it or we think he did it or
14 something.

15 You know you -- you put people in
16 the death chamber, you know -- you convict
17 people of murder based on hardcore
18 evidence, not supposition or, well, he
19 didn't like his girlfriend so he probably
20 murdered her.

21 Q. In your opinion, is Ms. Carroll's
22 testimony that the rape occurred sufficient
23 to prove that the rape took place?

24 A. No. No. Because she said it? I
25 mean --

1 R. Fisher

2 Q. So is it your opinion that in a
3 he said/she said situation, we are not
4 allowed to believe --

5 A. Either party --

6 Q. We are not allowed to believe the
7 person who alleges that the sexual assault
8 occurred?

9 A. No. You're -- you know, you're
10 not guilty until you're proven guilty.
11 That means that everybody that was accused
12 of something would go to court and to jail,
13 you know -- you don't convict people of
14 burglary or crime or anything like that
15 unless there is evidence that they did it.

16 You're presumed -- in the
17 American judicial system -- and I'm not a
18 lawyer -- but in the American judicial
19 system, you are innocent until proven
20 guilty. Isn't that true?

21 Well, it's the same thing in
22 anything, until you are proven guilty, you
23 are innocent. The burden is on the thing
24 -- I could accuse you of stealing my
25 wallet. does that mean you should go to

1 R. Fisher

2 trial and be convicted because I accused
3 you of it? I mean, I don't know where
4 you're coming from. I'm lost here.

5 I mean, the bottom line just
6 because she makes an accusation, we are
7 supposed to assume it's true? I mean --

8 Q. Is Ms. -- is Ms. Carroll's
9 testimony relevant to whether or not
10 Trump's statement is false and therefore
11 defamatory?

12 A. I don't believe so. I believe
13 it's one person accusing the other of
14 wrongful act. And the bottom line is there
15 has got to be -- if everybody went to court
16 and jail when somebody accused them of
17 something, the court system would be --
18 fall apart.

19 I mean, normally police don't
20 arrest somebody -- I mean, they're on --
21 unless there is evidence. I mean, there
22 has to be evidence to it.

23 Q. And does that evidence include
24 the testimony of the victim of a sexual
25 assault?

1 R. Fisher

2 conclusions based on it.

3 I'm not going to opine on whether
4 she has a strong case or not.

5 Q. If we look on the bottom of page
6 5 of your report, and it goes on to page 6,
7 you're addressing Ms. Carroll's claim that
8 Trump falsely implied that she had accused
9 other men of sexual assault and then you
10 set forth testimony from plaintiff and
11 defendant's depositions.

12 Do you see that?

13 A. Yes.

14 Q. And then at the bottom, on page 6
15 at the bottom of this subsection, after
16 pointing to Ms. Carroll's deposition
17 testimony in which she explains that she
18 had been sexually assaulted before, you
19 conclude, "Trump's implication was true."

20 What do you mean by that?

21 A. Well, that's the one. Most of
22 these seven statements were a he said/she
23 said situation.

24 But that was one where there was
25 actually, you know, one way or the other,

1 R. Fisher

2 there was actually some evidence. I mean,
3 she -- she claimed that -- he claimed, I
4 suppose, that she had falsely accused other
5 men of sexual assault. She denied it.

6 But then again, the evidence I
7 saw is that she did. I mean, she accused
8 her girl scout leader of abusing her, and
9 then throughout this paragraph she talked
10 about they weren't all adults, but she
11 talked about other people assaulting her or
12 this or that.

13 So that was one of the couple
14 maybe where there was almost everything in
15 all those statements were totally he
16 said/she said, but that one it appears to
17 me that that wasn't a false statement
18 because she had accused other people.

19 Q. Is there anything in the evidence
20 reviewed that showed that she had falsely
21 accused other people of sexual assault?

22 A. Oh, I see what you mean.

23 Okay, I erred there. I didn't
24 factor in the word "falsely."

25 Q. So is your --

1 R. Fisher

2 A. As I said, I -- this thing
3 overnight.

4 Yes, that changes the context of
5 this definitely.

6 I just saw had accused other
7 people of sexual assault. Not falsely.

8 Right, we don't know -- we don't
9 know if these other things were false or
10 not with the girl scout leader, just that
11 she accused them. But we don't know if
12 that was falsely.

13 Yes, I would agree that the word
14 "falsely" in there which I obviously missed
15 would change the -- would change in this.

16 Q. And so recognizing now that the
17 word "falsely" is in there, what would your
18 comment be as revised?

19 A. Well, I wouldn't make a comment
20 on that at all. I would not have addressed
21 that particular statement at all because I
22 don't know whether they were falsely
23 accused or not.

24 So I wouldn't have even addressed
25 that particular comment because I would

1 R. Fisher

2 it in a manner that I felt was -- made
3 sense for my report or at least that my
4 style of doing things, let's put it that
5 way.

6 Q. And if you look at -- I guess, so
7 the part of your report that is the
8 analysis of the statements that we have
9 been talking about, is it your testimony
10 that you were simply responding to the
11 reservation of rights that Professor
12 Humphreys includes at the bottom of page 72
13 in her report?

14 A. I have to look at the bottom of
15 page 72.

16 Well, yes, that's the -- yes,
17 that's -- that was her -- I thought it was
18 the last paragraph. It's the next-to-last
19 paragraph, I guess, as it turns out.

20 But yes, that was what it was
21 referencing to a little bit earlier there.

22 Q. Okay. And in this -- in your
23 report in this section called "Analysis of
24 statements," on page 4, toward the bottom
25 in the paragraph that begins in her report,

1 R. Fisher

2 you say, "Humphreys detailed all these
3 allegations -- i.e. she said -- but did not
4 provide the defendant's responses."

5 Do you see that?

6 A. Yeah.

7 Q. If you turn to page 3, in the
8 second paragraph from the bottom, about in
9 the middle, you write, she, "She only
10 presents the 'she said' side and not that
11 of the 'he said.'"

12 Do you see that?

13 A. Yeah.

14 Q. So by the "she said," are you
15 referring to the allegations that
16 Ms. Carroll made against Mr. Trump in her
17 book, in the book excerpt that ran in New
18 York Magazine?

19 A. I don't think I was -- I wasn't
20 referring to Ms. Carroll at all.

21 Q. In presenting this case as a he
22 said/she said situation, the "she" is not
23 Ms. Carroll?

24 A. Oh, oh, okay. Yeah, no,
25 that's -- I'm sorry, yes, that is

1 R. Fisher

2 Ms. Carroll.

3 No, I was talking about -- I
4 didn't specify it to be what she said in
5 the book or anything. It could be what she
6 said in the complaint.

7 I'm talking about in general
8 terms, the allegations that she was making
9 against Mr. Trump, whether it was in her
10 article or in her complaint, I didn't
11 specify the source.

12 I just said that she has made
13 certain claims and allegations against him,
14 rightly or wrongly. But, you know, she has
15 made allegations, and frankly, I don't know
16 if any of us know whether she is right or
17 wrong. As I said, this is totally a he
18 said/she said.

19 But yes, that's -- I wasn't
20 sourcing it to any particular -- whether it
21 was the article, the book or the complaint.
22 I was just saying in general, the
23 allegations she was making.

24 Q. So the "she said" are
25 Ms. Carroll's allegations, correct?

1 R. Fisher

2 A. Yes.

3 Q. And the "he said" would be
4 Mr. Trump's response to those allegations?

5 A. Um-hm, correct.

6 Q. So if we can go to page 6 of --
7 sorry, page 8 --

8 A. Of my report?

9 Q. Professor Humphreys' report,
10 sorry.

11 A. Oh, getting confused on reports.
12 Okay.

13 Q. If you look, there is a block
14 quote that represents Mr. Trump's statement
15 on June 21, 2019.

16 A. Yeah.

17 Q. Do you see that?

18 A. Um-hm.

19 Q. And that block quote continues on
20 through page 9 -- through the top of page
21 9?

22 A. Um-hm.

23 Q. And then starting on page 9,
24 there is a text that reads, "The second
25 statement was made to reporters at the

1 R. Fisher

2 White House on June 22," and then there is
3 another block quote?

4 A. Yes.

5 Q. And then that continues on to
6 page 10, of Professor Humphreys' report.

7 And then we have a paragraph on
8 page 10 that begins, "The final statement
9 was published in an interview with The Hill
10 on June 24, 2019.

11 A. Um-hm.

12 Q. And it -- and it then goes on to
13 quote what Mr. Trump said to The Hill
14 reporters.

15 A. Um-hm.

16 Q. You see all three of these
17 statements quoted --

18 A. Yes.

19 Q. -- in Ms. Humphreys' report?

20 A. Frankly, that was one of the
21 reasons that I broke out -- since she made,
22 it's refreshing my memory a little bit.
23 Since she spent three or four pages
24 spelling out word for word what he said, I
25 mean, you know, in these different

1 R. Fisher

2 interviews or comments that he made in
3 various cases, the 21st, 22nd, 24th or
4 whatever, that's one of the reasons she
5 went into it that I analyzed each one of
6 them individually because where she
7 presented the whole, the whole scope of
8 what he said, I thought that, you know,
9 since she brought that up, that I would --
10 that I would break down the ones -- not the
11 whole ones, but the ones -- the portions of
12 it that they considered defamatory.

13 Q. But you would agree that
14 Professor Humphreys' report quotes what
15 Mr. Trump said in response to Ms. Carroll's
16 allegations?

17 A. As far as I know. I mean, I
18 assume -- I never saw the articles. I
19 assume this is an accurate representation
20 of what he said. I don't know that for a
21 fact. But I'm going to assume it is.

22 Q. So wouldn't these fully quoted
23 responses count as the "he said" side of
24 the equation?

25 A. I think -- I think you could

1 R. Fisher

2 construe it that way, yes.

3 Q. Is there any part of the "he
4 said" that you referred to in your report
5 that you believe is missing from Professor
6 Humphreys' report?

7 A. No. That could -- that seems to
8 be the -- I mean, as I said, I don't know.
9 I didn't see -- I don't know frankly
10 whether this represents everything he said
11 or didn't say. I mean, because I never saw
12 the original articles or the -- that these
13 came from.

14 So I don't know whether she
15 cherrypicked or whether this was everything
16 he said or not.

17 But to your point, yes, you could
18 say that this would, in fact, represent a
19 portion of the "he said" or good portion if
20 not all.

21 Q. And so do you stand by what you
22 wrote in your report that Professor
23 Humphreys quote only presents the "she
24 said" side and not that of the "he said"?

25 A. Well, in this context, yes, I

1 R. Fisher

2 guess this could -- could represent what he
3 was saying in this, yes.

4 This would be an accurate -- if
5 it's complete, this would be a fair
6 representation of his side.

7 Q. So if it's complete, you would
8 agree that you mischaracterized Humphreys'
9 report in saying it only presents the "she
10 said" side and not that of the "he said"?

11 A. I think that's a fair assessment.

12 Q. So if we look to page 7 of your
13 report, you recall that you disagreed with
14 Professor Humphreys' definition of
15 reputation?

16 A. Yeah, I -- I think that she is --
17 I think she is coming from a different
18 perspective on that. Of what reputation is
19 and the terms of -- I think she was --
20 well, go ahead and ask your question.

21 Q. Can I just have you read her
22 definition that's at the -- that you quote
23 at the bottom of page 7 in your report.

24 A. "Reputation is fundamentally a
25 social concept. One's reputation is

1 R. Fisher

2 the specific question and provide
3 follow-ups if I ask them.

4 If we look at page 8 of your
5 report, you provide your own definition of
6 reputation.

7 Do you see that?

8 A. Yes.

9 Q. It says, "More appropriate
10 definition of reputation would be that a
11 reputation is the sum of all of our actions
12 that is reflected by the people around us
13 in the same way they treat us or interact
14 with us"?

15 A. Yes.

16 Q. "It is an indirect result of
17 anything and everything that we do.
18 Successful people have always stressed on
19 the building and maintaining of reputation
20 as a fundamental ingredient to success."

21 A. Yes.

22 Q. Do you see that?

23 A. Yes.

24 Q. What's the difference between
25 your reference to, "The sum of all of our

1 R. Fisher

2 actions that is reflected in the people
3 around us and the way they treat us or
4 interact with us," and Professor Humphreys'
5 reference to "one's reputation determined
6 by the social esteem held among a bonded
7 group of people"?

8 A. Because mine is very clearly
9 oriented more to business and how people
10 are looking.

11 For instance, the direct
12 inference of that is the sentence,
13 "Successful people have always stressed on
14 the building and maintaining of reputation
15 as a fundamental agreement to success."
16 "Success" is talking about business world.

17 That is more -- that is more --
18 it's more generic in nature than Ms. --
19 Ms. -- it's more generic in nature than
20 Ms. -- Professor Humphreys was. But it's
21 also clearly more targeted to someone in
22 the public light and business world.
23 Someone successful. Someone -- you're not
24 talking about someone being a success in
25 their -- that they are popular in their

1 R. Fisher

2 neighborhood or at the country club. You
3 are talking about success in terms of the
4 business world.

5 Q. And does your report cite any
6 source or authority for your definition?

7 A. No. No. No. And I didn't feel
8 the need to. I'm my own authority.

9 But I don't need -- that's just
10 general -- it's a general definition of
11 reputation.

12 I mean, there is many definitions
13 of reputation. But that's -- that's
14 something I've had 50 years in the field
15 working on reputation and that's -- it's an
16 amalgamation of other definitions and maybe
17 with my own interpretation of it. I don't
18 have to cite an authority.

19 Q. But -- did you write this
20 definition yourself?

21 A. I wouldn't claim total
22 authorship, but I think I -- it's probably
23 a hybrid of, you know, as I said, I've been
24 an expert witness a lot of cases and I
25 write about reputation damage. I've

1 R. Fisher

2 written articles as you have seen on my
3 things. So I'm very aware of reputation
4 and whatever.

5 So I probably wrote this myself,
6 but it is probably something that relates
7 to other definitions I've seen in the past.

8 Q. But this is the first time you've
9 used this particular definition in one of
10 your reports, correct?

11 A. Yeah. I think it's -- I mean,
12 I've written -- not treatises, but I've
13 written articles on reputation and a lot of
14 in detail.

15 This is kind of just -- it's not
16 necessarily a direct excerpt from one of
17 those, but it's just kind of a shortened
18 version of things I've said about
19 reputation in the past.

20 Q. But in those articles, you
21 haven't sort of used this specific
22 three-sentence definition before, correct?

23 A. No, I -- I created that. I don't
24 think I lifted that from anything previous.
25 I think I just sat and wrote that from my

1 R. Fisher

2 own, you know, my own knowledge that I've
3 had.

4 Q. Wrote that for the purposes of
5 this rebuttal report?

6 A. Yes, yes.

7 Q. Okay.

8 A. Again, let me just express real
9 quickly, I'm not knocking Ms. Carroll's
10 definition. I think her definition is a
11 good one. I'm just saying it's -- two
12 things. I'm just -- well --

13 Q. I'm going to hand you?

14 MR. SWIFT: Just to clear it up.

15 There was -- were you finishing
16 answering his question or --

17 A. When he is talking to her, it's
18 kind of hard.

19 The only point I was making is
20 twofold. One it's too narrow of a
21 definition, and second of all, it's not
22 apropos to this particular situation.

23 Q. So the court reporter is handing
24 you a document we will mark as Exhibit 7 or
25 Fisher 7.

1 R. Fisher

2 A. Incidentally, there is --

3 MR. SWIFT: There is no question
4 pending.

5 A. I was just going to say I don't
6 think this has to end at 3. There is no
7 way this deposition is going to end by 3
8 o'clock. I mean, you could do it by Zoom
9 or continue somewhere it's not going to
10 happen by 3.

11 (Exhibit 7, article entitled,
12 "The Importance and Psychology of
13 Reputation in Human Lives," marked for
14 identification, as of this date.)

15 Q. Do you see what the court
16 reporter handed you is an article from the
17 source Medium entitled, "The Importance and
18 Psychology of Reputational Harm in Human
19 Lives"?

20 A. Um-hm.

21 Q. It's authored by Borderless
22 Technology Corp.?

23 A. Um-hm.

24 Q. It's published on February 9,
25 2018. Do you see that?

1 R. Fisher

2 A. I see it. And that's the date of
3 my wife's birthday, February 9.

4 But anyway...

5 Q. Are you familiar with Borderless
6 Technology Group?

7 A. No, I'm not.

8 Q. Have you seen this article
9 before?

10 A. No, I've not.

11 Q. Can you read the first three
12 sentences of the article.

13 A. "Reputation is the sum of all of
14 our actions as reflected by the people
15 around us in the way they treat or interact
16 with us."

17 Boy that sounds familiar.

18 "It is an indirect result of
19 anything and everything we do. Successful
20 people have always stressed on the building
21 and maintaining of reputation as a
22 fundamental ingredient to success."

23 Boy, is that so?

24 Q. You testified previously that you
25 developed your definition of reputation for

1 R. Fisher

2 the purposes of this rebuttal report. Is
3 that correct?

4 A. Yes, I did.

5 Q. Can you explain how the
6 definition you wrote for your November 2020
7 rebuttal report in this case appears
8 verbatim in an article from February of
9 2018?

10 A. I never saw this article. I --
11 no, I can't explain it. I mean, obviously,
12 there is -- I'm looking like I'm a
13 plagiarist or something.

14 But I swear -- the only thing I
15 can think of -- I never saw this article.
16 I can say that unequivocally. I've never
17 read an article about importance of
18 psychology in reputation ever.

19 The only thing I can say, and
20 it's too much of a coincidence to say the
21 words were exactly the same as I came up,
22 the only thing I can say is that I might
23 have seen this definition stand by itself
24 somewhere in the past and picked it up -- I
25 know I never saw the article. The words

1 R. Fisher

2 speak for themselves.

3 The only thing I can say is that
4 over the course of time obviously, I pick
5 and -- I pick up information from different
6 places and the only thing I can say is I
7 must have -- I must have -- I never saw
8 this article as a whole. I can guarantee
9 you that.

10 The only thing I can say is
11 somewhere along the line somewhere, someone
12 else picked this up, that particular phrase
13 or paragraph or whatever, and I came across
14 it somewhere by itself and picked it up.

15 I must have had it in another --
16 sometimes I pick from my own reports. I
17 might have put it another report and then
18 picked from it. I don't know.

19 But my compliments to whoever
20 found this though. It's -- so obviously,
21 that particular phrase I must have lifted
22 from another one of my reports or another
23 place that I had.

24 I mean, I do have a place where I
25 have different definitions of reputation

1 R. Fisher

2 kind of like a case -- a notes kind of
3 section I keep on the internet and
4 sometimes I go to it and extract out
5 definitions to feed -- to meet a particular
6 purpose. And that is all I have -- that's
7 the only way I can explain it.

8 Q. Okay. So turning to page --

9 A. Interesting.

10 Q. Turning to page 9 of your report,
11 you state, about three-fourths of the way
12 down in the paragraph that begins, "Note,"
13 you write that Professor Humphreys is
14 proposing "a social media campaign, not a
15 diverse multi-faceted communications
16 campaign as part of her reputation repair
17 program."

18 Do you see that?

19 A. Yes.

20 Q. What do you mean by a "social
21 media campaign"?

22 A. I mean, basically her -- the
23 whole campaign is, at least as she
24 described it, is an internet campaign.

25 Her campaign basically is -- the

1 R. Fisher

2 program.

3 Q. If I can just -- let's open
4 Professor Humphreys' report which is
5 Exhibit 4, the big one over there. And if
6 you could turn to page --

7 MR. SWIFT: It's Humphreys'
8 report.

9 Q. Turn to page 126.

10 A. 126?

11 Okay.

12 Q. And you will see at the top, it
13 says, "Appendix K damages model."

14 A. Yes, I see it.

15 Q. And you testified before that you
16 didn't focus on the appendices as part of
17 your review, but have you seen appendix K
18 before?

19 A. I can't even be sure I had the
20 appendices, to be honest with you. But I
21 didn't see them one way or the other.

22 Q. If you could just look at this
23 and then I think it continues for a few
24 more pages giving different cost amounts.

25 But if we look at the information

1 R. Fisher

2 even the most effective way to do it.

3 So I've got two problems with
4 this. I have a problem that she is putting
5 all her eggs in one basket, which would be
6 fine if they were unknown people maybe.

7 But when you have somebody
8 willing to do stuff for you for free and
9 you're spending all your money paying for
10 something that you can get otherwise,
11 it's -- I think her program -- and I have
12 the utmost respect for Professor Humphreys.
13 She is obviously extremely accomplished in
14 what she has done.

15 She has written books. She has
16 got awards. She has written articles. But
17 she is totally a fish out of water. She
18 doesn't understand how to repair -- she
19 knows how to promote things, but she has no
20 concept of how you overcome negative
21 reputations and her program is the best
22 example of it; not only in its direction
23 and focus, but the budget is ridiculous.

24 She said 3 to 20 million with
25 maybe the right figure being 10 to 12

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|----|----------------------------------|---------------|
| 1 | | |
| 2 | | |
| 3 | <hr/> | |
| 4 | E. JEAN CARROLL, |) CASE NO.: |
| 5 | |) |
| 6 | Plaintiff, |) 20-Civ-7311 |
| 7 | |) (LAK) (JLC) |
| 8 | v. |) |
| 9 | |) |
| 10 | DONALD J. TRUMP, in his personal |) |
| 11 | capacity, |) |
| 12 | |) |
| 13 | Defendant. |) |
| 14 | <hr/> | |

DEPOSITION OF ROBERT FISHER

VOLUME II

REMOTELY IN LOS ANGELES, CALIFORNIA

TUESDAY, DECEMBER 20, 2022

REPORTED BY: NATALIE PARVIZI-AZAD, CSR, RPR, RSR
CSR NO. 14125
JOB NO.: 220862

1 disseminated?

2 A. Oh, certainly.

3 Q. And that means looking at different types
4 of news sources, among other things, and figuring
5 out how many people might have seen or heard
6 negative information?

7 A. Well, I don't think there is a need to
8 figure out how many people. It's a -- I mean, you
9 know -- I mean, there's no way to determine how many
10 people, but the bottom line is you have to get a
11 feel on various factors, such as what type of
12 audiences saw it, what the geographical spread was.
13 I mean, was it heard in just a small town or was it
14 nationwide? I mean, there is a lot of factors that
15 dictate how would you approach planning and
16 implementing such a program.

17 Q. And do you follow any particular
18 methodology to quantify the degree of dissemination
19 of allegedly defamatory statements in print and news
20 sources?

21 A. No. Unlike Professor Humphreys, I don't
22 do statistical analysis. I mean, in most cases,
23 it's pretty clear -- both by the geographical spread
24 and by the means of the communications, it's pretty
25 clear on where -- you know, what the extent of the

1 Q. And do you ever look at the readership
2 data associated with the specific online news
3 sources?

4 A. No.

5 Q. And do you know what a bounce rate is?

6 A. Yes.

7 Q. What's a bounce rate?

8 A. Well, bounce rate is how many times
9 somebody goes on your website and actually sees
10 content as opposed to moving on.

11 Q. And do you account for a bounce rate in
12 part of your analysis of the dissemination of online
13 news?

14 A. That's something that I may or may not
15 factor in.

16 Q. What -- what data do you use as your
17 source for specifying the bounce rate?

18 A. Well, I haven't -- I don't get into it
19 that specifically.

20 Q. Do you know any of the specific data
21 sources that experts use for bounce rates?

22 A. Not particularly.

23 Q. And has your methodology for tracking
24 dissemination in online news been subject to any
25 form of peer review?

1 A. Not that I know of but they may exist.

2 Q. Have you ever seen it in any peer-reviewed
3 literature?

4 A. No. I haven't looked for it.

5 Q. And do you -- turning to television, do
6 you follow any particular methodology to quantify
7 the dissemination of allegedly defamatory statements
8 through television?

9 A. No.

10 Q. And is there particular data sets that you
11 consult to measure the viewership of individual
12 television programs?

13 A. No.

14 Q. And has your methodology for tracking
15 dissemination of allegedly defamatory information on
16 television been subject to any peer review?

17 A. No. As I say, I'm not the one that would
18 be doing this. So you can keep asking and I'll keep
19 saying no.

20 Q. Understood. And do you follow any
21 particular methodology to quantify the dissemination
22 of allegedly defamatory statements on Twitter?

23 A. No.

24 Q. And is there any data that you've
25 consulted to measure the level of engagement with

1 individual tweets?

2 A. No.

3 Q. And is there a particular source you use
4 for an impression rate in connection with tweets and
5 retweets of information on Twitter?

6 A. No.

7 Q. Do you know what an impression rate is?

8 A. Yes, I -- I looked at
9 Ms. Humphreys' -- yes, I -- I have an idea of what
10 impression rate is.

11 Q. And -- and what is an impression rate as
12 it pertains to Twitter?

13 A. Well, impression rate is -- is basically
14 how many -- how many hits there are on a -- on a
15 particular -- on Twitter on a particular subject or
16 post.

17 Q. And what -- what -- what is used to
18 measure those so-called hits on Twitter?

19 A. I don't know specifically.

20 Q. And have you ever done work with Twitter's
21 API?

22 A. No.

23 Q. Do you know what Twitter's API is?

24 A. No.

25 Q. Is there a peer-reviewed methodology that

1 you've used for tracking dissemination on Twitter --

2 A. No.

3 Q. -- for tracking allegedly defamatory
4 information?

5 A. No.

6 Q. And just thinking about social media more
7 generally, is there a particular methodology that
8 you use to quantify dissemination of allegedly
9 defamatory information on other forms of social
10 media?

11 A. No.

12 Q. Is there any particular data sources that
13 you use to measure dissemination or engagement with
14 defamatory information on social media?

15 A. No.

16 Q. And is there any peer-reviewed methodology
17 that you've used for tracking or quantifying
18 dissemination of information on social media?

19 A. No. As I said, this is not my -- this is
20 not my task or responsibility to do, it is -- all of
21 this would be handled by whatever firm or
22 subcontractors or consultants that are brought in
23 for -- to implement such a program, so you can keep
24 asking.

25 Q. And do you agree that in order to assess

1 the impact of an allegedly defamatory statement, you
2 have to determine approximately how many people
3 actually believed the statement when they read or
4 heard it?

5 A. Well, that's not germane to my role in
6 this case so I don't feel the need to respond on
7 that.

8 Q. So your testimony that it's not germane,
9 what percentage of people believe a statement is
10 true or false as part of your expert --

11 A. No. I'm -- I'm saying that I represent
12 the defendant in this case and that is something
13 that the -- the plaintiff is more -- is more germane
14 to her than to me, but if I was representing the
15 plaintiff, yes, then that would be -- that would be
16 more -- a more -- more my task or my responsibility.

17 Q. But in order to -- as a general matter, in
18 order to assess the impact of alleged defamation, is
19 it important or relevant to understand the
20 percentage of people who read or viewed that
21 defamation or alleged defamation, sort of, to
22 understand the percentage of people that actually
23 believed it?

24 A. It may or may not.

25 Q. In what cases may it -- may it be

1 relevant?

2 A. Well, I mean, certainly -- certainly
3 the -- the plaintiff in this case is claiming
4 reputation harm as a result of statements that
5 Mr. Trump made whether they -- regardless of whether
6 they were true or false. She's claiming reputation
7 harm, so therefore if I was her expert I would have
8 to delve into that, but in my role in this
9 particular case that's not part of my assignment.

10 Q. So in this particular case, you have not
11 undertaken any efforts to determine what percentage
12 of people who read or heard Mr. Trump's allegedly
13 defamatory statements believed them?

14 A. No.

15 Q. Okay. And as a general matter, as an
16 expert, do you agree it is important to -- in
17 order to understand the impact of alleged defamation
18 to understand the percentage of people exposed to
19 those statements that are likely to believe it or
20 disbelieve it?

21 A. Well, it's -- it's a moot point, the
22 question you're asking because the bottom line is
23 regardless of whether it's something that's
24 worthwhile or not in this particular case, I did not
25 have the ability to do so or may -- be more

1 specific, the time to do so. I was given five days
2 to -- from the time I was contacted, to the time I
3 prepared a report. And I did not have the luxury
4 of -- of delving particularly beyond what was
5 reasonable for me to know to be able to offer my
6 conclusions and opinions.

7 And plus, I may add that having been
8 involved in these kind of things for 50 years,
9 representing people that have been damaged by
10 programs and the extent of the damage, how they were
11 damaged, how it manifested itself, so on and so
12 forth, I don't need to consult pie charts or to --
13 to have a -- have an educated feel of -- of what the
14 potential damage was.

15 Q. And you would agree that in designing a
16 reputational repair campaign someone should, sort
17 of, focus on the forms of media that the target
18 audience actually consumes?

19 A. That would be a reasonable -- a reasonable
20 thing to do.

21 Q. And is part of your designing reputation
22 with repair campaigns, what sort of data do you rely
23 on to identify the types of media that your target
24 audience consumes?

25 A. Well, I don't particularly get into data

1 best news media that have the most credibility, the
2 reach, and whatever to go after, regardless of
3 whether they ever carried the original information.

4 Q. And -- and what data do you rely upon to
5 determine what the best media is for your target
6 audience in terms of credibility and the other
7 things you mentioned?

8 A. Knowledge. I've been in this business
9 50 years. A reporter for "The "New York Times", I
10 was in journalism -- I know the media, I know which
11 media -- who the media are, I know what they do, I
12 know who they reach out to, I know who reads them or
13 listens to them, I know what -- for instance, if I
14 had something from Mr. Trump back in the day, I
15 wouldn't go to MSNBC for it, I would go to FOX, you
16 know, or now Newsmax or America One [sic] or
17 whatever.

18 But the bottom line is I -- I have
19 knowledge; that's why I'm an expert. I have
20 50 years of knowledge of working with the media.
21 Most of them were around 50 years ago. "New York
22 Times" was around 50 years ago, so was the
23 Washington Post, so was ABC, so was AP, so was Wall
24 Street Journal. I don't need to consult textbooks
25 or media guides -- again, we're just talking about

1 Q. Mr. Fisher, I'm just -- I feel like we're
2 well off the topic of my question --

3 A. Well, I'm trying to -- we are but I'm
4 trying to educate you because the pattern of your
5 questions obviously shows a lack of knowledge
6 about --

7 Q. Mr. Fisher, I get to ask the questions,
8 you have to answer them.

9 A. Okay. Pardon me. Go ahead.

10 Q. And we'll get through it more quickly if
11 you just stick to answering them.

12 A. Go ahead.

13 Q. So in this case you did do not any
14 analysis to calculate the number of times that
15 Mr. Trump's allegedly defamatory statements were
16 viewed; correct?

17 A. No.

18 Q. And so, you have no idea how many people
19 actually saw or read what Mr. Trump said about
20 Ms. Carroll?

21 A. No. I see you got Professor Humphreys
22 (inaudible) did charts somewhat to that effect but
23 no, I didn't. I didn't -- as I said, I did not have
24 time at the time to do it. I was on a strict
25 deadline so there were things -- there were some

1 things I might have been done if I had a couple
2 months to do it, the luxury of time, but in this
3 case I had to meet the need.

4 Q. Understood. So just again, you did not --
5 you did not have any idea how many people actually
6 saw or read what Mr. Trump said about Ms. Carroll?

7 A. Not at the time I did this report, no.

8 Q. And sitting here today?

9 A. Well, I -- I glanced at Professor
10 Humphreys' charts. I didn't add them up but I
11 glanced at them.

12 Q. Okay. And you didn't perform any analysis
13 to calculate the percentage of people who were
14 likely to believe what Ms. Trump said about
15 Ms. Carroll; correct?

16 A. No, I don't think I had to do a study
17 to -- to -- to get that information. I mean,
18 Mr. Trump is a very well-known person and
19 has a -- is very polarizing. And to answer your
20 question, I don't need to see surveys to have a good
21 feel on how many people would believe what he said
22 or not believe what he said.

23 Q. And so, any opinion you have about
24 the -- the degree to which people were receptive to
25 what he said is based on your good feel and your

1 instincts?

2 A. Well, yeah, I think it's based on -- I
3 don't think good feel or instincts, I think
4 Mr. Trump has been a national figure since 2016. I
5 mean, he was before that, but in a different context
6 and I -- I think that it's -- after eight years or
7 whatever it's been of -- six years of him being in
8 the public limelight, it's pretty -- pretty clear
9 who or -- what people are prone to accept what he
10 says and aren't accepting, including degrees.

11 Q. And is -- is your -- your understanding
12 based on any particular data points?

13 A. Not data points, no. Just -- just
14 information, general information.

15 Q. What do you mean by general information?

16 A. Well, information about percentages, like
17 of people who are -- are strong advocates of Trump
18 as opposed to people that aren't. I mean,
19 it's -- you know, it's very clear he has a very
20 adamant -- I mean, a very strong following to -- to
21 some extent. And then, conversely there is a lot of
22 people that think he's the reincarnation of the
23 devil, you know, I mean, I don't think that's it.

24 So I mean, if -- if we were talking about
25 you or me, who are basically unknown and didn't have

1 a profile or whatever, then I think you'd have to
2 delve into -- to the us as individuals to see, well,
3 you know, what kind of favorability ratings we have,
4 who we impact or who we don't impact. But with
5 Mr. Trump that's not the case.

6 Q. And so, you didn't analyze any -- or you
7 didn't analyze the ideological makeup of people who
8 were exposed to Mr. Trump's allegedly defamatory
9 statements though reading print news in this case?

10 A. Well, I did (inaudible) --

11 Q. Did you consult any data?

12 A. No, no data. But I -- it's not -- define
13 the word analyze. I mean, did I do a systematic
14 analysis, no, but do I -- did I analyze from the
15 sake of what is readily apparent about Mr. Trump and
16 -- and where he stands in the American public? And
17 among the media, for that matter?

18 Q. So can you -- can you walk me through what
19 specifically you did, sort of, what methodology you
20 followed for analyzing the ideological makeup of
21 people who specifically saw Trump's allegedly
22 defamatory statement in print news sources?

23 A. I didn't -- I didn't -- I didn't do any
24 analytical study of people who saw -- saw the
25 defamatory statements --

1 Q. Okay. And did you --

2 A. -- or allegedly defamatory statements.

3 Let me correct myself.

4 Q. And did you do any analysis of the
5 ideological makeup of people who saw the allegedly
6 defamatory statements, specifically through online
7 news sources?

8 A. No.

9 Q. And did you do any analysis of the
10 ideological makeup of the people who saw Mr. Trump's
11 allegedly defamatory statements through television?

12 A. Tell me, how many hours are there in a
13 day, tell me that and then I'll answer your
14 question.

15 Q. Mr. --

16 A. I know, I can't ask you a question. No,
17 no, no.

18 Q. And did you do any analysis of the
19 ideological makeup of people who were exposed
20 through -- to Mr. Trump's allegedly defamatory
21 statements through Twitter?

22 A. No.

23 Q. And did you do any analysis of the
24 receptivity of Mr. Trump's supporters to claims that
25 he committed sexual misconduct?

1 A. No.

2 Q. And in this case, you haven't developed
3 your own budget for a reputational repair program
4 for Ms. Carroll; correct?

5 A. Well, no, I wasn't -- I wasn't -- although
6 I did opine in the first part of the -- this
7 deposition that -- two things; one, of course, that
8 her -- that the budget she came forward with is -- I
9 don't know what's a kind way of saying it -- is --

10 Q. Just --

11 A. Over --

12 Q. -- answer my question, Mr. Fisher?

13 A. Yes, I did -- I did opine to you in the
14 initial deposition that when we were talking about
15 that I had done programs for 100,000 to 900,000, my
16 own programs for budgets, I did opine something in
17 the higher -- maybe, higher end of that range would
18 be more than suitable for Ms. Carroll's program,
19 should she prepare.

20 Q. But did you develop your own budget for --

21 A. No, there was no purpose to it. I'm not
22 representing the plaintiff. Why would I -- why
23 would I put together a budget for a program that --
24 that is for -- for her?

25 Q. And your report doesn't identify specific

1 New Yorker" in your answer. What do you mean "The
2 New Yorker" broke this story in the first place?

3 A. Well, "The New Yorker" broke
4 Ms. Carroll -- Ms. Carroll wrote a book and one of
5 the chapters in the book addressed Mr. Trump's
6 alleged assault and a week before, I think it was on
7 the 21st -- the 21st of June, I think a week before,
8 the New York -- "The New Yorker" published an
9 excerpt from the book or ran an article on it and
10 that -- when I said broke the story, that was the
11 first it had reached the public.

12 Q. And it's - and it's your understanding
13 that the print version of "The New Yorker" is where
14 this story begins?

15 A. As far as public exposure, yes, that's my
16 total understanding.

17 Q. And what about the allegedly defamatory
18 statements of Mr. Trump, do you know where those
19 originated?

20 A. Well, those originated in response to "The
21 New Yorker" article. In other words, the New
22 York -- let me finish. "The New Yorker" article
23 came out, I believe, it was on the 21st of the month
24 and between the 21st and the 24th, on three
25 different occasions within the first three days,

1 bullets that have, sort of, of negative opinions --

2 A. I'm sorry, where is that in here?

3 Q. At the top of -- the paragraph at the top
4 of page 29 --

5 A. Oh, yeah, top of the paragraph, yeah.

6 Q. -- down at the last sentence.

7 A. Oh, I see. Yeah. "Anyone reading." Yes,
8 I see.

9 Q. Okay. And so it says, "Anyone reading
10 these headlines relating to the Plaintiffs could
11 reasonably be expected to conclude," and then you
12 have a list of six negative conclusions that -- that
13 one might draw?

14 A. Yes.

15 Q. Did you consult any data to assess the
16 percentage of people who are likely to believe the
17 specific things that you listed here?

18 A. No, there was no specific data. It's --
19 again, this was, first of all, as I've said before I
20 think in the last depo, I'm a big believer in rhyme,
21 reason, logic, and common sense. And I think that
22 anyone that read those articles -- I mean, I don't
23 think it's rocket science that these would be the
24 impressions that people would take away from some of
25 these headlines related to a series of health care

1 facilities, particularly for people, elderly people.
2 I think it's -- I think that's -- I mean, sometimes,
3 you know, again, if it looks like a duck, walks like
4 a duck, and quacks like a duck, it's a duck, and I
5 think that's true in this case.

6 Q. And so, is it your testimony that anyone
7 reading the -- the headlines that we looked at
8 before would come to these conclusions?

9 A. Yes, it's more than that. I mean, let me
10 not digress but go forward a little bit. This is --
11 part of this is feedback I received from the client,
12 you know. I mean, in other words, in talking to --
13 the client to hospital personnel, talking to the
14 lawyers, talking to the people, I mean, this is --
15 these are the kind of things that were circulating
16 in the community so -- I mean, I could have come to
17 these just from common sense and logic about how
18 people would interpret something like this, but I
19 also received feedback that this was the kind of
20 feedback that they were getting at the hospitals,
21 you know, from the nurses, doctors. I mean, this
22 was kind of feedback people were giving to people
23 that were working from the hospital.

24 So it was more than just common sense of
25 how people would interpret something. It was direct

1 the subset of the general public that Professor
2 Humphreys identified is an appropriate target
3 audience for her reputational repair program?

4 A. Yeah, I -- although I think it -- it's
5 narrowed. The bottom line is I -- I think that's a
6 misguided target audience. I mean --

7 Q. Just so I can get an answer to my
8 question. But your report said she was targeting
9 the public in general, when, in fact, her report
10 specifies a subset of the population that she's
11 targeted --

12 A. Would you read me the part of my -- that
13 talked about the -- the public in general or -- read
14 that part.

15 Q. "While she doesn't clearly define her
16 audience, it would appear she is targeting the
17 public in general."

18 A. Okay. Well, that's a little bit of
19 splitting hairs, but, yes, the Trump is a subset of
20 -- of the public in -- I mean, Trump supporters are
21 the public in general. But the bottom line is that
22 I will concede to you that that is a -- a more
23 targeted definition by saying the Trump supporters.

24 I was just differentiating it from going
25 into it after industries or anything other than

1 people on the street. But you're right, that's a
2 more defined -- more defined definition.

3 Q. Okay. So we're going look at your report
4 briefly. I'm going to mark -- mark it -- the one
5 that doesn't have the page numbers as Fisher 20 just
6 so we can, sort of, keep track of them both.

7 (Exhibit 20 marked.)

8 THE WITNESS: Okay. Do you want to put 20
9 on that? Got to be official here.

10 BY MR. CRAIG:

11 Q. So if we turn to the second to the last
12 page.

13 A. Yes.

14 Q. And you see the second bullet down that
15 begins "If only"?

16 A. Yes.

17 Q. So your report states, "If only basically
18 25 percent would believe Trump, that leaves
19 75 percent of the public who could be impacted."

20 The next bullet reads, "If you reasonably
21 assume that at least 50 percent wouldn't believe
22 anything he said, you are left with a very small
23 percentage that you would have to reach to
24 counteract his negative comments about Carroll."

25 A. Right.

1 certain group of people or the population and I
2 think that that's -- those are reasonable
3 projections based on what polls and surveys have
4 shown about what his support is.

5 Q. But none of those polls and surveys are
6 cited in your report --

7 A. No, no, no.

8 Q. And can you identify any peer-reviewed
9 literature supporting the proposition that a
10 reputational repair program should ignore the
11 segment of the population that holds a negative
12 belief about the person whose reputation is damaged?

13 A. You're going to have to -- in other words,
14 it ignores the percentage of the population that has
15 a negative opinion about who?

16 Q. Ms. Carroll.

17 A. You mean not address them?

18 Q. Yes.

19 A. I didn't know Ms. Carroll had any
20 negative -- I mean, you'd have to represent -- I
21 don't think anyone has a negative impression of
22 Ms. Carroll so --

23 Q. You testified earlier that 25 -- you
24 believe 25 percent of the population would believe
25 Ms. Trump and that --

1 win over, you know, and you're -- while you don't --
2 while people are -- you don't think you're going to
3 impact very much one group, you don't ignore them
4 and you don't -- you put the emphasis on those
5 people that are open to persuasion one way or the
6 other.

7 Q. And is it your testimony that you should
8 not target the people, the population -- the segment
9 of the population among who your reputation was
10 damaged?

11 A. Oh, no, no, no, definitely. I -- well --

12 Q. Let me rephrase my question, so I can get
13 a clear answer --

14 A. Yeah, I guess the word target -- I mean,
15 you can target a lot of different groups. That's
16 the problem, that word target. I definitely think
17 you should reach out to those people, if that's what
18 you're asking. I'm just saying that if you had to
19 weigh how much resources and time and budget and
20 money, that they would be better put to somebody
21 that isn't so -- would be so hard to change their
22 opinion on.

23 Q. And -- and you testified last week that
24 you didn't review any of the peer-reviewed
25 literature cited by Professor Humphreys in her

1 report; correct?

2 A. No, I -- I stated earlier in this -- this
3 segment of the deposition that I don't read
4 peer-reviewed literature.

5 Q. And so that would include the literature
6 cited in the section of her report entitled "Media
7 Exposure and Counter Attitude and No Attitude
8 Change"?

9 A. Right.

10 Q. And is it your opinion that people could
11 never change strongly-held beliefs?

12 A. Well, that -- you can't make a blanket
13 statement with that. I mean, there's -- there's --
14 I would say you might say percentages that can't
15 change your belief, but I don't think you can state
16 that not -- if you had 100 people, and you were
17 trying to change their opinion, all 100 would not
18 change it. I mean, there's going be some people you
19 could reach -- reach to with some logic or common
20 sense. No, I don't think you can make a blanket
21 statement like that.

22 Q. And do you think it is more costly or less
23 costly to change a person's views when those views
24 are strongly held?

25 A. Well, more costly. I mean, it's going to

1 take a more intense effort because if you're talking
2 about somebody with a clean slate, and if you go to
3 them and make a reasonable approach to them, you
4 have more chance to influence. If you're talking to
5 someone, and they've got their back up -- I'm not
6 saying it's a lost cause, but it's going to take a
7 more intense effort to get them to change their
8 opinion.

9 Q. And have you read any of the literature on
10 psychology and persuasion?

11 A. No.

12 Q. And what about on how people form and
13 change their beliefs?

14 A. No. But, again, I don't have to read
15 literature. I've got 50 years of being a
16 communicator in which --

17 Q. Again, just answers to the questions to
18 get through it --

19 A. Okay. No, I haven't read it.

20 Q. And have you read any literature on the
21 number of exposures to a message that are required
22 in order to change someone's beliefs?

23 A. No.

24 Q. So if we look at -- I was trying to get my
25 page numbers correct here.

1 I'm just saying that a couple of them, in my
2 opinion, are -- whether they're true or not true,
3 and I'm not opining on that, are -- would not have
4 the extent of reputational harm that maybe some of
5 the other ones would. So, yes, I think it's
6 appropriate.

7 Q. And so, is it your opinion that the
8 President of the United States calling someone a
9 liar with respect to an alleged sexual assault is
10 mild?

11 A. That one -- of the four, that one I
12 will -- I will concede. That one is -- probably
13 shouldn't have been on that list. The other
14 three --

15 Q. We'll go through them.

16 Is it your opinion that the President of
17 United States accusing someone of fabricating sexual
18 assault allegations to sell a book is mild?

19 A. Yeah, I do. And same with the political
20 agenda. Yeah, I think that's --

21 Q. Again, I'll go through them.

22 A. Yeah.

23 Q. Is it your opinion that the President of
24 the United States accusing someone of fabricating a
25 sexual assault allegation for political ends is

1 Q. So that wouldn't be a mild allegation,
2 defamatory statement?

3 A. No, not mild. I'll stick with the three
4 that are in there in that bracket, other than the
5 lying about selling books, political agenda, and I
6 don't know her. I mean, somebody's saying, "I don't
7 know her," and the other person said, "I did. I
8 don't." That's -- that's not reputation harm in
9 that.

10 Q. And is it your opinion that the President
11 of the United States implying someone is too ugly to
12 sexually assault is mild?

13 A. Yeah. I mean, first of all, again --

14 Q. Just yes or no is fine.

15 A. Yes, yes, I -- given who it's coming from,
16 yes. I mean, Trump doesn't think much of women. I
17 don't think (indiscernible) that much and, yeah, I
18 would agree that.

19 Q. And do egregious and extreme statements
20 cause more reputational harm than mild statements?

21 A. I would say that's a fair assessment.

22 Q. And so, if this case involves statements
23 that you consider all to be egregious or extreme
24 rather than mild, your estimate of Ms. Carroll's
25 reputational damages would increase?

1 A. Well -- well, I can't make it as a
2 definitive fact, but generally, if someone -- my
3 understanding of Ms. Carroll, she has -- had a very
4 positive -- before all this happened, she had an
5 extremely positive -- a positive image, reputation,
6 and therefore, because of who she is, because of her
7 positive image, and her longstanding visibility in
8 the community, yes, I think she would -- she would
9 be able to offset that kind of derogatory comments,
10 again, not only because who she is but because who
11 Mr. Trump is and -- and in terms of allegations.

12 Q. So, did you consult any data in connection
13 with your opinion about the possible effect of -- of
14 Ms. Carroll's preexisting reputation here?

15 A. No. And that's where I used the word
16 "possibly." I mean, I could take that word out,
17 but, I mean, the bottom line is I hedged a little
18 bit. But I think it's reasonable to assume that a
19 woman that had a public profile for 30 years and had
20 been all positive, that it's a -- if a certain
21 individual is known to be controversial makes some
22 comments about her, that it's not going to harm her
23 to any -- to the extent it might somebody who
24 didn't -- people didn't know.

25 Q. And you would agree that longstanding

1 positive reputations can be destroyed almost
2 instantly by a negative statement; correct?

3 A. Yeah, you must have seen in one of my
4 reports where I said reputations -- there's an old
5 saying. It takes years to build a reputation and
6 seconds to destroy it.

7 But, again, a lot of these questions that
8 you're asking, I would answer differently if it was
9 anyone but Mr. Trump. But given the nature of his
10 controversial nature, I think everybody would look
11 at those with a -- you know, seed of doubt.

12 Q. And have you consulted any -- any data
13 about how people filter Mr. Trump's comments when it
14 comes to statements he makes about other
15 individuals?

16 A. Yes, yes, I've talked to -- all the time,
17 last six years. I talked to people all the time. I
18 mean, people I know, people -- friends, business --
19 family, business associates. We talk all the time.
20 He's a public figure. He makes thousands of
21 comments. His tweets were famous.

22 Yes, I've talked -- over the years, I've
23 talked to hundreds, probably, of people about what
24 did you think of this or did you see Mr. Trump said
25 that and this, and did you hear his latest -- yeah,

1 I would say yes. Over six years, I've probably
2 talked to at least a hundred people, more.

3 Q. And that is in your capacity as a family
4 member or friend or someone you might run --

5 A. Well, some --

6 Q. -- into in a business setting?

7 A. Yeah. Sorry. Some in a business context,
8 but, I mean, you know, I talk to -- yeah, it's a
9 combination of personal conversations and, in some
10 cases, business conversations.

11 Q. And is there any data that underlies that
12 opinion that you've addressed in your report?

13 A. There may be. I'm not aware of it.

14 Q. Do you recall having any source for your
15 opinion that Mr. Trump causes less reputational harm
16 than another person saying the exact same thing?

17 A. Only the knowledge, experience, and
18 expertise I've gained over 50 years of dealing with
19 people in public life and people in private life and
20 how they impact -- if someone that's well known
21 saying something as opposed to somebody that isn't
22 and how that impacts the recipient of the negative
23 assertions.

24 Q. So I believe you gave this example when
25 you testified last week. Is it your opinion that a

1 you know, I could answer the question.

2 Q. And so do you have -- do you have any data
3 or other sources for differentiating between
4 statements that Mr. Trump makes and Mr. Pence and
5 Mr. Schumer makes?

6 A. Any data, no. Just, you know, a
7 combination of common sense and logic and -- and
8 then my experience in the background on people
9 calling each other names, and those who had positive
10 images making the assertions, and those who had
11 negative images making the assertions.

12 Q. And you refer to something you've written
13 before that it can take a lifetime to build a
14 reputation but only seconds to destroy it, and it's
15 fair to say that that's something that you write in
16 most of your expert reports?

17 A. Yeah, yeah. I mean, I think -- I have
18 certain principles I cite. I mean, I have a list of
19 like 32 principles that relate to reputation harm
20 that I've amassed over the years and I consult those
21 principles. But, yeah, I think in almost every
22 report I put that in because -- particularly if I'm
23 representing the plaintiff, in a sense.

24 But, again, that is related to normal
25 people. I mean, businesses against businesses or

1 100 percent but she had a highly positive -- yes.

2 Q. And you did not include the point that it
3 could take a lifetime to build a reputation but only
4 seconds to destroy in your report here; correct?

5 A. No. Because as I -- I represent -- first
6 of all, I usually do that in -- in conjunction with
7 the reputation damage repair programs I write. And
8 since I didn't do it, I didn't put it in. I use
9 that as a preface for the program, but in this case
10 I'm representing the defendant, so I didn't put it
11 in.

12 Q. And you agree that the more broadly
13 negative information is disseminated, the greater
14 the reputational harm; correct?

15 A. I'm sorry. Please repeat that question.

16 Q. You would agree that the more broadly
17 negative information is disseminated, the greater
18 the reputational harm?

19 A. Well, that's logical, yes.

20 Q. And you would also agree that the
21 President of the United States has one of the most
22 prominent platforms in the world?

23 A. I think that's a fair assumption.

24 Q. And are you a member of any political
25 party?